



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

OFFICE OF STATE ETHICS' STATEMENT REGARDING GOVERNOR'S BILL No. 1009 AN ACT CREATING THE OFFICE OF GOVERNMENTAL ACCOUNTABILITY GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE MARCH 7, 2011

The Office of State Ethics ("OSE") is an independent agency whose mission is to ensure honesty, integrity and accountability in state government through education, interpretation and enforcement of the State Codes of Ethics ("Ethics Codes").

The OSE appreciates the Governor's response to the serious budget crisis that the State faces but has grave concerns about the Governor's proposal (Governor's Bill No. 1009, An Act Creating the Office of Governmental Accountability) to consolidate the OSE, along with the State Elections Enforcement Commission, the Freedom of Information Commission, the Judicial Review Council and the State Contracting Standards Board, into a new Office of Governmental Accountability. The Governor's proposal would remove any *independent* oversight of ethical conduct for public officials, state employees and judges; lobbyist activities; campaign finance and elections, transparency; and procurement standards. In 2005, following ethics scandals that ended with convictions and jail terms for a Governor and several other high ranking state officials, the State of Connecticut made a commitment to strengthen government integrity with passage of significant ethics reform laws that created and/or strengthened most of these agencies. The proposed consolidation would be an unfortunate step backwards that would severely erode this commitment. Combining the OSE with four other agencies with different authority and missions for savings of approximately \$1 million a year is not worth the decreased oversight, which could result in increased corruption and concomitant higher costs. In the end, repairing damages of corruption to the integrity of state government would be more costly than any minimal savings achieved.

Similar proposals to consolidate watchdog agencies failed in 1992 and 2004; this proposal should fail again now.

The proposed consolidation would concentrate control of many fundamental and independent agencies under a single executive director who answers solely to the governor.

The proposed consolidation under Governor's Bill No. 1009 calls for the executive director of the proposed Office of Government Accountability to be a department head appointed by, reporting to, and serving at the pleasure of the Governor. This would result in an extensive aggregation of power in a single person who reports to a partisan elected official within the executive branch of government. The current structure of five multi-citizen boards and commissions brings diversity and citizen involvement through a selection process that is fair, balanced and bi-partisan.

Further, the executive director of the proposed Office of Government Accountability would be responsible for soliciting contributions in the form of grants, gifts and any other financial services from other governmental units and private parties alike. Although gifts to the state are permissible under the Ethics Codes, the solicitation or acceptance of contributions particularly from private parties who would be subject to the jurisdiction of the proposed Office of Government Accountability would undermine public confidence in the integrity, impartiality and independence of the new governmental watchdog.

The stated purpose of the consolidation – to eliminate redundancies – will not be achieved because the Office of State Ethics and the other four watchdog agencies pursue separate and distinct missions and their responsibilities do not overlap.

Like each of the agencies involved in this proposed consolidation, i.e., State Elections Enforcement Commission, the Freedom of Information Commission, the Judicial Review Council and the State Contracting Standards Board, the OSE has a separate and distinct responsibility, which is to promote and enforce integrity and accountability in government by providing advice, guidance and education to public officials, state employees, lobbyists, and the public about the application of the Ethics Codes; by interpreting and, when necessary, fairly and impartially enforcing the Ethics Codes; by administering the lobbyist and financial disclosure filing systems; and by providing the public with access to non-exempt information.

The consolidation would combine five watchdog agencies into one inherently incompatible agency within which their distinct missions would cause intractable conflicts. Public confidence in the integrity of state government surely will be eroded by the proposed consolidation which will weaken the effectiveness of each of the watchdog agencies involved. While none of these agencies has overlapping responsibilities, several of them have jurisdiction over each other. The OSE has jurisdiction over all state employees, which includes the employees of the other four agencies; the same is true for the Freedom of Information Commission, which recently found that the OSE illegally met in confidential session when it deliberated behind closed doors during a Board hearing involving a finding of violations of the Code of Ethics for Public Officials by a state employee that resulted in a penalty of \$15,000. The OSE is currently appealing the Freedom of Information Commission decision in Superior Court. Because certain enforcement proceedings under the Ethics Codes are confidential, it is unclear under the newly-proposed consolidated structure how such Freedom of Information Act challenges to the confidentiality provisions would be resolved. The inherent conflict between confidentiality requirements during investigations that involve alleged violations of the Ethics Codes and the transparency provisions of the Freedom of Information Act would potentially create internal struggles and discord within a single superagency outside of the public eye.

In addition, presently under certain Ethics Codes proceedings, judge trial referees are presiding officers. Under the consolidated agency, judges would continue to preside over enforcement actions. It is not difficult to imagine a situation where a judge presiding over a hearing becomes

simultaneously the subject of a matter before the Judicial Review Council which would be a part of the new consolidated agency. Under the Governor's proposal, the same division that is seeking a probable cause ruling from a judge would be investigating him or her.

Also under the proposed consolidation, the enforcement and advisory functions of the OSE would be shared by the same attorneys who would also be responsible for enforcing and providing advice about the Freedom of Information Act; campaign finance and other elections laws; matters involving misconduct by judges; and procurement matters. Each of these areas requires highly-specialized knowledge by experienced attorneys. Attorneys whose job requires them to become experts in five distinctly different and complex areas of law would likely be masters of none.

The proposed consolidation may result in some short-term savings but would inevitably lead to considerable expenses.

According to the Governor's budget, the resulting savings from consolidating the OSE with other four agencies would be approximately \$1 million in 2012 and \$1.2 million in 2013 and the consolidation would reduce staff of the five agencies from 96 to 78, a reduction in staff of 18%. In fiscal year 2011, the combined budgets of all five watchdog agencies is approximately \$10.4 million, 0.06% of the entire state budget for 2012.

The OSE consists of a staff of 18 as well as the nine member Citizen's Ethics Advisory Board, which serves in a volunteer capacity. The actual expenditures of the OSE in 2010 translated to a cost of \$0.44 for each citizen of Connecticut. This cost does not include the revenue collected by the OSE from lobbyist registration fees and civil penalties which has totaled nearly \$2.6M since the OSE was created in 2005. These revenues are deposited directly into the General Fund. The OSE has experienced a 14% cut in staff positions since 2008 and has seen cuts to its budget of nearly \$500,000 through deficit mitigation plans and holdbacks. In addition, the OSE has been extremely conservative fiscally and has lapsed more than \$1 million since fiscal year 2008.

The OSE receives an average of 26 phone calls per day for assistance and advice and annually responds in writing and over the phone to over 1,000 requests for advice. Nearly 2,800 individuals, included all State Marshals, file Statements of Financial Interests, 10% of which are audited for compliance. The OSE receives thousands of financial reports filed by approximately 1,800 communicator lobbyists, client lobbyists, and in-house communicator lobbyists. Nearly 40 audits of registered lobbyists were completed in 2010, 59% of which contained findings of non-compliance which were corrected, up from 53% in 2009. The Enforcement Division conducted a total of 138 reviews of potential violations of the Ethics Codes during 2010; all but four were resolved in 2010. One Board hearing concluded with the finding of a violation and a \$15,000 penalty. The OSE held 39 education sessions for 1,336 individuals and reached thousands more with online training tools.

As this data indicates, the OSE, which was created less than six years ago in response to scandals that saw a previous Governor and other high-ranking state officials convicted and jailed on corruption charges, is an effective and efficient agency. Autonomy, adequate funding, and effective enforcement represent the three-legged stool of a vigorous and meaningful government watchdog agency.

Although consolidation of the watchdog agencies may produce limited savings, the restructuring costs, including statutory and regulatory overhaul, retraining of the staff, education of those who would be subject to the jurisdiction of the newly-formed agency, and institutional responses to potential conflicts of the applicable laws are likely to erase those savings. More importantly, any immediately achieved savings would be of little consequence if the proposed restructuring results in a weakened, internally conflicted agency. Effective oversight of state government to ensure the most fundamental values of our government – *the integrity and transparency of our democracy* – requires independent and adequately funded agencies. The proposed consolidation and changes to budgetary oversight would severely erode this commitment and would be an unfortunate step backwards that would turn the watchdogs into anemic showdogs.

The Office of State Ethics is ready to work with everyone to achieve cost savings and efficiencies without sacrificing effective and independent oversight of state government.

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